

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4044 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

UNION OF INDIA

Versus

SUDHABEN J ANADKAT

Appearance:

MR RJ OZA for Petitioners
MR DM THAKKAR for Respondent No. 1 & 2

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

Date of decision: 17/12/98

ORAL JUDGEMENT

1. Rule. Mr. D.M. Thakkar waives service on behalf of respondents No.1 and 2. In facts and circumstances of the case, the matter is heard finally with the consent of parties.

2. We have heard Mr. R.J. Oza for the petitioners and Mr. Thakkar for respondents No.1 and 2.

3. Mr. Oza has pointed out that the impugned order

passed by the Tribunal is passed while deciding Miscellaneous Application No.5 of 1997 for condonation of delay in Original Application No.5 of 1997 on the basis of certain statements made by learned advocates for parties. He has drawn our attention to certain material factors which were not considered by the Tribunal while passing the impugned order. The heirs of the deceased employee have also obtained a succession certificate issued by Civil Court (S.D.), Rajkot, wherein applicant No.1 in M.A. No.5 of 1997 in O.A. No.5 of 1997 before the Central Administrative Tribunal was not a party and applicant No.2-Sanjay J. Anadkat was a party. The Civil Court, Rajkot, issued succession certificate in favour of Padmaben and Shobhaben, who have not been joined as party in the M.A. or O.A. Further, Mr. Oza has also raised a question about the jurisdiction of the Tribunal.

4. Considering the fact that the Tribunal has not considered many aspects relating to this, including jurisdiction, succession certificate, etc., we are of the view that it would be better if the matter is remanded back to the Tribunal for its decision after considering the rival side contentions, in accordance with law.

5. We do not express any opinion about the jurisdiction of the Tribunal or merits of the case.

6. In the facts and circumstances of the case, the Tribunal is directed to decide both the M.A. and the O.A. within three months from the date of receipt of writ of this order. Rule is made absolute accordingly with no order as to costs.

[C.K. THAKKAR, J.] [A.L. DAVE, J.]

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